

Entered - 03/06/00 - sb  
CL00L0135 - DIANNE C. MITCHELL

# ADVERSE REPORT

COM *Fulley's Legal*

CLAIM OF: SOUTHSIDE MECHANICAL, INC. DATE *6.27.00*

through its attorney,

David C. Marshall

One Georgia Center

600 West Peachtree Street, NW

Suite 2400

Atlanta, Georgia 30308

CHM. *C. T. Marks*

*St. John*

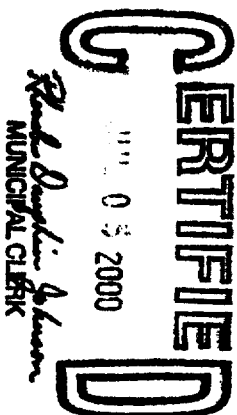
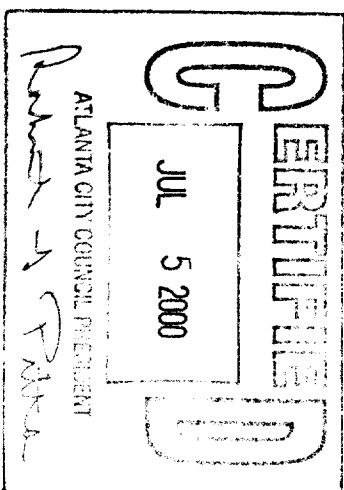
*Marked West*

For damages alleged to have been sustained as a result of failure to properly inspect, approve and/or permit the renovation of property located at 2909 Campbellton Road, SW in 1995 and 1996.

THIS ADVERSED REPORT IS  
APPROVED

BY: *Robert N. Godfrey*  
ROBERT N. GODFREY  
DEPUTY CITY ATTORNEY

ADVERSED BY JUL 05 2000  
CITY COUNCIL



00-R-0942



## OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC  
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.  
SECOND FLOOR, EAST  
SUITE 2700  
ATLANTA, GEORGIA 30335  
(404) 330-6033  
FAX (404) 658-6103

July 18, 2000

David C. Marshall  
Attorney at Law  
600 West Peachtree St., NW  
Suite 2400  
One Georgia Center  
Atlanta, GA 30308

00-R-0942

RE: Southside Mechanical, Inc.

Dear Attorney Marshall:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on July 5, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division at (404) 330-6400.**

Yours very truly,

Rhonda Dauphin Johnson, CMC  
Municipal Clerk

cc: Claims Division/Law Department

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0135

Date: June 15, 2000

Claimant /Victim SOUTHSIDE MECHANICAL, INC.  
BY: (Atty) David C. Marshall  
Address: One Georgia Center, 600 West Peachtree Street, NW, Suite 2400, Atlanta, Georgia 30308  
Subrogation: Claim for Property damage \$ not stated Bodily Injury \$             
Date of Notice: 02/18/00 Method: Written, proper X Improper             
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.)             
Date of Occurrence 1995 and 1996 Place: 2909 Campbellton Road, SW  
Department Planning, Development and Neighborhood Conservation Division: Building  
Employee involved            Disciplinary Action:           

NATURE OF CLAIM: The claimant alleges that it has been sued due to the death of a resident at the above described location due to carbon monoxide poisoning for an alleged "faulty" hot water heater. The claimant further alleges that the City failed to property inspect, approve and/or permit the renovation of the subject property. The City is immune from liability as set forth in O.C.G.A. §36-33-1.

### INVESTIGATION:

Statements: City employee            Claimant            Others            Written            Oral             
Pictures            Diagrams            Reports: Police            Dept Report            Other             
Traffic citations issued: City Driver            Claimant Driver             
Citation disposition: City Driver            Claimant Driver           

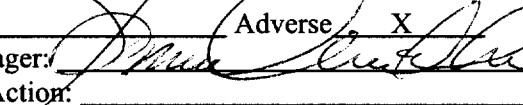
### BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial             
Improper Notice            More than Six Months            Other X Damages reasonable             
City not involved            Offer rejected            Compromise settlement             
Repair/replacement by Ins. Co.            Repair/replacement by City Forces             
Claimant Negligent            City Negligent            Joint            Claim Abandoned           

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

### RECOMMENDATION:

Pay \$            Adverse X Account charged: 1A01            2J01            2H01             
Claims Manager:  Concur/date 06-15-00  
Committee Action:            Council Action

HAMILTON, WESTBY, MARSHALL & ANTONOWICH, L.L.C.

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ONE GEORGIA CENTER  
600 WEST PEACHTREE STREET, N.W.  
SUITE 2400

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DAVID C. MARSHALL  
MICHAEL F. ANTONOWICH  
CATHERINE DELLINGER BUCKLEY  
DOUGLAS E. COBB  
WILLIAM N. ANDERSON  
ROBERT C. BUCK  
JOSEPH T. BRASHER  
BERNARD F. KISTLER

ENTERED - 3-6-00 - SB  
00L0135 - MIKE REEVES

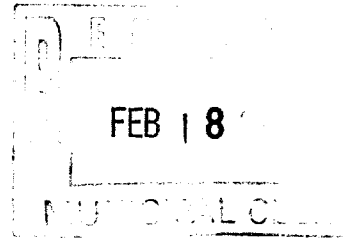
OF COUNSEL  
B. ANNE SMITH

Reeves  
03/02/00  
Dr

February 18, 2000

**VIA HAND DELIVERY**

The Honorable William C. Campbell, Mayor  
Office of the Mayor  
City of Atlanta  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335-0300



02-18-00P12:41 REV D

**Re: ANTE LITEM NOTICE**

**Anne Tanksley, et al. v. Brencor, Inc., et al.**  
**Civil Action File No.: 99-VS-156218-G**  
**Fulton County State Court**

**Claimant:** Southside Mechanical, Inc.

**Tortfeasor:** City of Atlanta / Building Permits & Inspections and/or John Doe

**Place of Occurrence:** Cascade Pines Apartments, 2909 Campbellton Road, SW, Atlanta, Fulton County, Georgia.

**Damages:** To be determined at Trial or Settlement

Dear Mayor Campbell:

Pursuant to O.C.G.A. § 36-33-5, please consider this letter to be a presentation of a claim in writing to the governing authority of the City of Atlanta for adjustment, to wit: an *ante litem* notice.

Please be advised that Plaintiffs in the above-captioned case made a claim against Southside Mechanical, Inc., Defendant in the above-captioned case (and Claimant of this *ante litem* Notice) on or about August 20, 1999, alleging damages for the death of Ira Mae Marshall, who died on or about May 22, 1999, as result of carbon monoxide poisoning from an alleged faulty hot water heater and/or hot water heater ventilation system at Cascade Pines Apartments in Atlanta, Georgia.

While the details and facts of the case are still being investigated, it is believed by this Defendant that the City of Atlanta could be liable for failing to properly inspect, approve and/or

permit the renovation project of the above-stated apartments, which was conducted on or about late 1995, and 1996.

Accordingly, and although this Defendant denies all liability to the Plaintiffs, if Defendant Southside Mechanical, Inc. is found to be at fault, it reserves the right to seek contribution and/or indemnification, allowed by law, from the City of Atlanta.

A copy of the above-referenced lawsuit is being enclosed for your convenience.

Should you have any questions or comments, feel free to give me a call. Thank you for your assistance with this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David C. Marshall". The signature is fluid and cursive, with the first name "David" being the most prominent.

David C. Marshall

Attorney for Southside Mechanical, Inc.

encl.

cc: Rhonda Johnson, Municipal Clerk (by hand delivery)  
Susan P. Langford, City Attorney (by hand delivery)

00-  -0942

RCS# 2057  
7/05/00  
1:38 PM

Atlanta City Council

Regular Session

\*\*\_\*\_\*\_\*\*\*\*

Consent Agenda pgs. 1-13

SEE ATTACHED LISTING OF  
ITEMS ADOPTED/ADVERSED  
ON CONSENT AGENDA

Adopt

YEAS: 11  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 0  
ABSENT 3

NV McCarty  
Y Starnes  
Y Bond  
B Winslow

Y Dorsey  
Y Woolard  
Y Morris  
Y Muller

Y Moore  
Y Martin  
Y Maddox  
Y Boazman

Y Thomas  
B Emmons  
B Alexander  
NV Pitts

ITEM (S) REMOVED FROM  
CONSENT AGENDA  
00-O-0982  
00-O-0996  
00-R-0954  
00-R-0981  
00-R-0999

\*\*\_\*\_\*\_\*\*\*\*

07/05/00 Council Meeting	
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
<ol style="list-style-type: none"> <li>1. 00-O-0882</li> <li>2. 00-O-0815</li> <li>3. 00-O-0986</li> <li>4. 00-O-0987</li> <li>5. 00-O-0988</li> <li>6. 00-O-1002</li> <li>7. 00-O-0574</li> <li>8. 00-O-0972</li> <li>9. 00-O-0818</li> <li>10. 00-R-0990</li> <li>11. 00-R-0992</li> <li>12. 00-R-0993</li> <li>13. 00-R-0885</li> <li>14. 00-R-0884</li> <li>15. 00-R-0883</li> <li>16. 00-R-0880</li> <li>17. 00-R-0814</li> <li>18. 00-R-0957</li> <li>19. 00-R-0961</li> <li>20. 00-R-0998</li> <li>21. 00-R-0887</li> <li>22. 00-R-0888</li> <li>23. 00-R-0889</li> <li>24. 00-R-0997</li> <li>25. 00-R-0892</li> <li>26. 00-R-0955</li> <li>27. 00-R-0984</li> <li>28. 00-R-1000</li> <li>29. 00-R-0908</li> <li>30. 00-R-0909</li> <li>31. 00-R-0910</li> <li>32. 00-R-0911</li> <li>33. 00-R-0912</li> <li>34. 00-R-0913</li> <li>35. 00-R-0944</li> <li>36. 00-R-0945</li> <li>37. 00-R-0946</li> </ol>	<ol style="list-style-type: none"> <li>38. 00-R-0914</li> <li>39. 00-R-0915</li> <li>40. 00-R-0916</li> <li>41. 00-R-0917</li> <li>42. 00-R-0918</li> <li>43. 00-R-0919</li> <li>44. 00-R-0920</li> <li>45. 00-R-0921</li> <li>46. 00-R-0922</li> <li>47. 00-R-0923</li> <li>48. 00-R-0924</li> <li>49. 00-R-0925</li> <li>50. 00-R-0926</li> <li>51. 00-R-0927</li> <li>52. 00-R-0928</li> <li>53. 00-R-0929</li> <li>54. 00-R-0930</li> <li>55. 00-R-0931</li> <li>56. 00-R-0932</li> <li>57. 00-R-0933</li> <li>58. 00-R-0934</li> <li>59. 00-R-0935</li> <li>60. 00-R-0936</li> <li>61. 00-R-0937</li> <li>62. 00-R-0938</li> <li>63. 00-R-0939</li> <li>64. 00-R-0940</li> <li>65. 00-R-0941</li> <li>66. 00-R-0942</li> <li>67. 00-R-0943</li> <li>68. 00-R-0947</li> <li>69. 00-R-0948</li> <li>70. 00-R-0949</li> <li>71. 00-R-0950</li> <li>72. 00-R-0951</li> </ol>